

**BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**

<b>IN THE MATTER OF THE NEBRASKA</b>	<b>)</b>	
<b>PUBLIC SERVICE COMMISSION,</b>	<b>)</b>	
<b>ON ITS OWN MOTION, SEEKING TO</b>	<b>)</b>	<b>APPLICATION No. NUSF-28</b>
<b>CONDUCT AN INVESTIGATION</b>	<b>)</b>	
<b>OF INTRASTATE ACCESS CHARGES FOR</b>	<b>)</b>	
<b>RURAL ILECS</b>	<b>)</b>	

**REBUTTAL TESTIMONY**

**OF**

**SCOTT A. MCINTYRE**

**DIRECTOR – PRODUCT AND MARKET ISSUES**

**QWEST CORPORATION**

**September 4, 2002**

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**OF SCOTT A. MCINTYRE**

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**I. INTRODUCTION OF WITNESS**

**Q. PLEASE STATE YOUR NAME, TITLE AND ADDRESS.**

A. My name is Scott A. McIntyre. I am employed by Qwest Corporation (Qwest) as Director – Product and Market Issues. My business address is Room 3009, 1600 7<sup>th</sup> Avenue, Seattle, WA, 98191.

**Q. ARE YOU THE SAME SCOTT A. MCINTYRE WHO FILED DIRECT TESTIMONY IN THIS CASE?**

A. Yes.

**II. PURPOSE OF TESTIMONY**

**Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

A. The purpose of my testimony is to address a few of the key concepts raised by Steven Watkins and Sue Vanicek, on behalf of the Nebraska Rural Independent Telephone Companies.

**III. REBUTTAL OF MR. STEVEN WATKINS**

**Q. WILL YOU ADDRESS ALL OF THE POINTS RAISED BY MS. VANICEK AND MR. WATKINS?**

A. No. While I could rebut many individual statements, I believe there is a core philosophy that separates the position of the Rural Independent Companies from the position taken by Qwest, many carriers and the FCC. I will address that core philosophical difference in an effort to be concise.

1 **Q. WHAT IS THE KEY POSITION THE RURAL INDEPENDENTS ADVANCE**  
2 **IN THIS CASE?**

3 A. The Rural Independent Companies take the position that the cost of the loop should  
4 be shared and supported by the many services that utilize the loop. The Rural  
5 Independents suggest that switched access rates should contribute to the cost recovery  
6 of the loop because the loop is required to originate and terminate long distance calls  
7 carried by the long distance carriers who pay the switched access rates.  
8

9 **Q. DOESN'T THIS APPROACH SOUND REASONABLE?**

10 The approach is not reasonable when you begin to identify and analyze, the problems  
11 associated with maintaining disparate intrastate and interstate switched access rates.  
12 As I stated in my direct testimony, eliminating the rate differences between interstate  
13 and intrastate access services will address the following problems:

- 14 1) Reduce the incentive for uneconomic bypass<sup>1</sup> of the switched network;
- 15 2) Remove economic penalties for carriers that rate average their toll plans;
- 16 3) Reduce the confusion to customers who have to deal with many rate plans driven  
17 by a wide variety of switched access rates;
- 18 4) Eliminate toll usage-rated support for end-user Non-Traffic Sensitive ("NTS")  
19 flat-rated costs;
- 20 5) Eliminate the hidden support that all users of the network pay, but in various and  
21 incalculable ways; and,
- 22 6) Provide balanced support for universal service at both the interstate and intrastate  
23 levels.  
24  
25

26 **Q. WITH SPECIFIC REFERENCE TO UNECONOMIC BYPASS, DOES MR**

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<sup>1</sup> As I stated at page 4 of my direct testimony, uneconomic bypass often occurs when service providers bypass the switched network with dedicated facilities. These facilities are attractive because switched access rates are relatively high. To the degree that these bypass facilities carry local traffic, they merely represent a competitive alternative. To the degree that they carry toll traffic, they bypass switched access and therefore bypass the support for local service that is built into current rates

1           **WATKINS RECOGNIZE THE IMPACT OF UNECONOMIC BYPASS DUE**  
2           **TO HIGH ACCESS RATES?**

3    A.    It would seem not. On page 12 of his testimony, Mr. Watkins discusses how  
4           companies would not allow the “free” use of their facilities in a free enterprise world.  
5           He suggests here that carriers should not expect to get a free ride on the loop and  
6           should contribute to its cost. He seems to miss the concept that bypass facilities do  
7           exactly that. They provide a free ride to the customer and not only bypass what might  
8           be considered loop cost contribution, but also the contribution associated with the  
9           switched access service itself. Even if switched access were priced at FCC rates it  
10          would provide some contribution to the local service provider. The use of bypass  
11          facilities, which is encouraged by high switched access rates, results in the reduction  
12          of contribution to switched access revenues as well. Even if relatively few customers,  
13          in actual numbers, bypass the payment of switched access charges the reduction of  
14          traffic minutes and switched access revenues may be very significant. In this regard,  
15          the Rural Independent Companies may be losing more revenue due to bypass than  
16          they would lose by lowering switched access rates.

17  
18    Q.    **DOES MR. WATKINS MAKE ANY OTHER STATEMENTS THAT ARE**  
19           **CLEAR EXAMPLES OF HIS MISUNDERSTANDING OF THE BYPASS**  
20           **MARKET?**

21    A.    Yes. A clear example is on page 13 of his testimony (lines 12 – 15) where he states  
22           that “it is the unavoidable conclusion that an unfettered industry would not come to  
23           the conclusion that no portion (i.e., zero) of the costs of common lines should be  
24           recovered via the rates users pay for making long distance calls.” The industry is  
25           unfettered in that bypass alternatives are widely available. Customers clearly indicate  
26           that if the opportunity is available to pay **zero** in support of common line costs **that is**  
27           **exactly** what they will choose. Bypass is the easy choice for customers who wish to  
28           contribute no support for common line costs. The industry has come to exactly the  
29           **opposite** conclusion purported by Mr. Watkins.

1  
2 **Q. DO YOU AGREE WITH THE POSITION MR. WATKINS HAS TAKEN**  
3 **CONCERNING THE FCC'S MAG ORDER?**

4 A. No. I do believe that the direction taken by the FCC in the MAG Order is the  
5 inevitable direction for the industry. Denying that the competitive forces put in  
6 motion by the Telecommunications Act of 1996 and implemented by the FCC, will  
7 reach rural areas of the country seems illogical. New technologies are widely  
8 available in cities and consumers will demand their spread to rural areas. These  
9 pressures will force rural services to match metropolitan services and the cost  
10 structures and rate structures will need to be similar. To expect rural areas to remain  
11 isolated from industry evolution is unsupportable. Rural areas may not be faced with  
12 all of the new concepts of cost structure and rate rebalancing as quickly as  
13 metropolitan areas, but it is far better to anticipate these trends and put sound policies  
14 in place now than to pretend that insulation from these trends is eternal.

15  
16 **Q. HOW DO YOU RESPOND TO THE RURAL INDEPENDENT COMPANIES'**  
17 **POSITION THAT THE COST OF THE LOOP SHOULD BE SHARED AND**  
18 **SUPPORTED BY THE MANY SERVICES THAT UTILIZE THE LOOP?**

19 A. Qwest supports the actions taken by the FCC in its MAG Order to reduce interstate  
20 switched access rates and implement an end user subscriber line charge. This has  
21 shifted local service support paid by carriers through switched access rates back to  
22 end users, where it should be. Consistent with the FCC's actions, ILEC intrastate  
23 switched access rates in Nebraska should be similarly restructured.

**IV. REBUTTAL OF MS. SUE VANICEK**

1  
2  
3 **Q. DOES SUE VANICEK, ON BEHALF OF THE RURAL INDEPENDENT**  
4 **TELEPHONE COMPANIES RAISE ISSUES YOU WOULD LIKE TO**  
5 **REBUT?**

6 A. Yes. Ms. Vanicek starts off with a discussion of whether switched access rates  
7 contain implicit subsidies. This is a discussion of stand-alone cost methodologies that  
8 suggest that there cannot be implicit subsidies in switched access rates if they do not  
9 exceed stand-alone costs. A stand-alone cost would be that cost associated with a  
10 product, such as switched access if that were the only product produced by a  
11 company. I agree that such stand alone cost studies are a standard that can be used,  
12 but I disagree with Ms. Vanicek's conclusion and with the value she places on such  
13 studies. I do not believe that stand-alone cost studies are necessary in this case. I  
14 believe the Commission can determine that switched access reductions are warranted  
15 in light of the public policy implications outlined in my testimony.

16  
17 **Q. CAN RATES CONTAIN SUBSIDIES EVEN IF RATES ARE BELOW STAND**  
18 **ALONE COST?**

19 A. Yes. This is the key to understanding stand-alone cost analysis. While rates above  
20 stand-alone cost clearly indicate the presence of subsidies, rates below stand-alone  
21 cost do not preclude the existence of subsidies.

22  
23 **Q. MS. VANICEK ASSERTS THAT U S WEST (NOW QWEST) WITNESS DR.**  
24 **WILLIAM E. TAYLOR HAS TESTIFIED THAT STAND-ALONE COST**  
25 **STUDIES SHOULD BE USED TO DETERMINE IF ACCESS RATES**  
26 **CONTAINS IMPLICIT SUBSIDIES. DO YOU AGREE WITH MS.**  
27 **VANICEK'S CHARACTERIZATION OF DR. TAYLOR'S TESTIMONY?**

28  
29 A. No I do not. From my reading of Dr. Taylor's testimony, it appears that he would  
30 agree with me that stand-alone cost studies are difficult and impractical to conduct.

1 Ms. Vanicek conveniently leaves out that portion of Dr. Taylor's testimony in which  
2 he states:

3  
4 Stand-alone costs are difficult to calculate since they generally involve  
5 optimized stand-alone networks for services that would never be supplied in  
6 isolation (e.g., what is the stand-alone network that supplies call waiting and  
7 only call waiting?). Fortunately, if no service or group of services is priced  
8 below its TSLRIC, we can conclude that the rate structure is subsidy-free.

9  
10 In any event, I do not believe that stand-alone cost studies are necessary in this case. I  
11 believe the Commission can still determine that switched access reductions are  
12 warranted in light of the public policy implications outlined above.

13 Additionally, the opinion of an expert is only as good as the facts and circumstances  
14 upon which the opinion is based. All expert opinions are based on the facts and  
15 circumstances available to the expert at that time. As facts and circumstances vary so  
16 necessarily do the opinions of an expert. Here, the facts and circumstances upon  
17 which Dr. Taylor based his opinions have changed dramatically since 1998. For  
18 example, since that time, the FCC has undergone a review of rural access charges and  
19 the basis for reducing implicit subsidies in access charges, which did not include the  
20 use of stand alone cost studies. In so doing, the FCC clearly suggested, that to the  
21 extent that stand alone cost studies were relevant to the determination of subsidies in  
22 telecommunications before the implementation of the 1996 Act, stand alone costs  
23 have substantially diminished, if any, relevance today.

24 Consequently Ms. Vanicek's reliance on Dr. Taylor's prior testimony is misplaced.

25  
26  
27 **Q. HAS THERE BEEN OTHER TESTIMONY FILED IN NEBRASKA**  
28 **RECENTLY ON THIS SUBJECT THAT THE COMMISSION MAY**  
29 **REFERENCE?**

30 **A.** Yes, both Ms. Vanicek and I filed testimony in NUSF-17 on this subject.



1  
2 **Q. DOES MS. VANICEK AGREE WITH MR. WATKINS ABOUT SWITCHED**  
3 **ACCESS PROVIDING SUPPORT FOR LOOP COSTS?**

4 A. Yes. This is a key part of Ms. Vanicek's argument as it is with Mr. Watkins. Ms.  
5 Vanicek asserts that if you include loop costs in switched access rates, then a stand-  
6 alone cost analysis will demonstrate that prices are above cost and subsidies are less  
7 likely to occur. This line of thinking is contrary however, to the direction of the FCC  
8 and the majority of the industry. Ms. Vanicek's and Mr. Watkins' approach to pricing  
9 switched access holds together only as long as this archaic logic holds together.

10  
11 **Q. IS MS. VANICEK'S CONCERN OVER THE FLOW THROUGH OF ACCESS**  
12 **REDUCTIONS VALID?**

13 A. No. The marketplace will provide for the flow through of access savings to customers.  
14 Contrary to her assertions, there is data to support this flow through, even when no  
15 regulation requires it. Her statement at the top of page 7 of her testimony, for  
16 example, is contrary to the facts. She states that "Data published by the FCC  
17 demonstrates that access costs as a proportion of interstate revenue per minute have  
18 declined significantly since 1997, which indicates that access rate reductions have not  
19 been flowed through to the end user." She goes on to quote some more statistics about  
20 this, but this statement is very misleading. For example, if in 1997 access costs were 4  
21 cents, while toll rates per minute were 10 cents, access would be 40 percent (4 cents/  
22 10 cents) of the toll rate per minute, as she later cites. If access rates were then  
23 reduced by 50% to 2 cents **and this reduction were passed through 100% to**  
24 **customers**, the resulting toll rate would be 8 cents (a 2 cent or 20% reduction in  
25 rates). The resulting percentage of access rate to toll would fall to 25 percent (2  
26 cents/8 cents). This is a case where the exact **opposite** of Ms. Vanicek's conclusion is  
27 the actual case: toll rate reductions have tracked access rate reductions on a  
28 proportional basis.

29 Moreover, the flow-through of access charge reductions need not be a regulatory  
30 mandate. Sufficient competition exists such that market forces will pressure toll

1 providers to flow-through access reductions. There are many complexities in offering  
2 toll plans that make mandatory flow-through difficult to administer, at best.

3  
4 **IV. CONCLUSION**

5  
6 **Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY?**

7 A. Both Mr. Watkins and Ms. Vanicek rely on the concept that switched access  
8 rates should provide cost support for the loop. This concept is contrary to the  
9 direction of the FCC and the majority of the industry, and reflects the archaic tradition  
10 of treating toll service as a luxury service subject to a form of luxury tax. This concept  
11 will not serve the consumer of the future and the Rural Independent Companies need  
12 to realize this and move forward. Retaining the concept of loop cost support provided  
13 by all users of the loop was reasonable in the past when universal service was a prime  
14 motivating goal. Going forward, this idea will perpetuate implicit subsidies and  
15 inhibit the new industry goal of fair and widespread competition with the innovation  
16 and competitive pricing that it will bring to all consumers.

17 It is the Commission's duty to see past the protectionism of the Rural Independent  
18 Companies advocacy and put policies in place that manage the transition to a fully  
19 competitive industry. To deny the inevitable is to renounce the Telecommunication  
20 Act of 1996 and deny rural consumers the benefits of a competitive industry.

21  
22 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

23 A. Yes it does.  
24